



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

07 NOV 2006

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

In re Application of	:	
MOSSAKOWSKI, Gerd	:	
Application No.: 10/522,520	:	DECISION ON
PCT No.: PCT/DE03/02556	:	
Int. Filing Date: 29 July 2003	:	PETITION
Priority Date: 29 July 2002	:	
Attorney Docket No.: 102132-24	:	UNDER 37 CFR 1.181
For: METHOD FOR VIDEO MONITORING	:	
OBJECTS BY MEANS OF A MOBILE	:	
COMMUNICATION SYSTEM	:	

This decision is in response to "Petition to Withdraw Holding of Abandonment," filed on 14 August 2006.

BACKGROUND

On 29 July 2003, applicants filed international application PCT/DE03/02556. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 February 2004. The deadline for entry into the national stage in the United States was 29 January 2005.

On 27 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 29 July 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 18 July 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 14 August 2006, applicants filed the instant petition.

DISCUSSION

Applicant claims to have not received the Notification of Missing Requirements. Applicant alleges this may be because the Notification failed to listed the law firm in the address

and listed only the street address and floor. This seems unlikely. This petition has been treated as a non-receipt of Office action, rather than misdirected communications.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been satisfied. Practitioner states that the Notification of Missing Requirement was not received. The docket clerk submitted a declaration indicating that a search of the file and docket records indicates that the Notification of Missing Requirements was not received.

Item (3) has not been satisfied.

First, it appears that a Notification of Missing Requirements is docketed for this application, with a response date of 27 September 2005. An explanation of this entry and "NM CUI AWAIT FILING RECEIPT" are required.

Second, practitioner must provide a copy of the docket record for the firm, where the nonreceived Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II. The docket records for this application alone are not sufficient. Further, the docket records are only referenced in the declaration of Nanci Manfredi, not in the petition of Christa Hildebrand.

The declaration appears to be in compliance with 37 CFR 1.497(a)-(b). The fee for late submission of the search fee, examination fee or oath or declaration will be charged to deposit account no. 14-1263, as authorized.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459